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SERVICE DATE - SEPTEMBER 29, 2003

SURFACE TRANSPORTATION BOARD

STB Docket No. AB-6 (Sub-No. 400X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
–ABANDONMENT EXEMPTION–
IN FRANKLIN AND WEBSTER COUNTIES, NE

Decided: September 22, 2003

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 19.8-mile line of railroad between milepost 216.95 near Franklin, NE, and milepost 197.15 near Red Cloud, NE, in Franklin and Webster Counties, NE. Notice of the exemption was served and published in the Federal Register on March 5, 2003 (68 FR 10575-76).

By decision and notice of interim trail use or abandonment (NITU) served April 3, 2003, the proceeding was reopened and a 180-day period was authorized for the Nebraska Trails Foundation, Inc. (NTF), and the Lower Republican River Visionaries of Red Cloud to negotiate an interim trail use/rail banking agreement with BNSF for the entire line pursuant to the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The trail use negotiation period was scheduled to expire on September 30, 2003.¹

On September 9, 2003, BNSF filed a request for a 180-day extension of the trail use negotiating period.² BNSF states that additional time is needed due to ongoing negotiations with the NTF.

¹ The April 3, 2003 decision also imposed a public use condition, which is scheduled to expire on October 1, 2003, and two environmental conditions, consisting of the U.S. Fish and Wildlife Service condition and a historic preservation condition. The historic preservation condition was removed by decision served May 8, 2003. The other environmental condition imposed in the April 3, 2003 decision remains in effect.

² Because the NITU is scheduled to expire on September 30, 2003, a 180-day extension would run until March 28, 2004.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended. An extension of the negotiating period will promote the establishment of trails and rail banking consistent with the Trails Act.³ Accordingly, the NITU negotiating period will be extended to March 28, 2004.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. BNSF's request to extend the NITU negotiation period is granted.
2. The negotiating period under the NITU is extended to March 28, 2004.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

³ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).